

ABSTRAK

Perkawinan melahirkan akibat hukum yang signifikan yaitu berupa harta bersama yang diperoleh selama ikatan perkawinan. Pengaturan mengenai pembagian harta bersama ini belum diatur secara rinci mengenai posisi anak bawaan. Putusan Pengadilan Agama Ambarawa Nomor 2007/Pdt.G/2023/PA.Amb menjadi kasus krusial yang mencerminkan penemuan hukum baru (*Rechtvinding*) hakim, mengintegrasikan norma Kompilasi Hukum Islam dengan fakta persidangan untuk menyeimbangkan kepastian hukum dan keadilan. Hal tersebut diperlukan untuk menggali kesenjangan antara norma (*das sollen*) dan praktik (*das sein*), termasuk faktor sosiologis serta pengaruhnya terhadap hak anak bawaan. Permasalahan dalam penelitian ini adalah meneliti sejauh mana anak bawaan memiliki hak terhadap harta bersama orang tuanya, serta bagaimana pertimbangan hukum dan putusan majelis hakim. Tujuan dari penelitian ini adalah untuk mengidentifikasi dan menganalisis hak waris anak bawaan (anak tiri) terhadap harta bersama orang tuanya, serta menilai pertimbangan hakim dalam putusan Pengadilan Agama terkait hak waris anak bawaan, serta mengevaluasi kesesuaian antara norma hukum dan praktik peradilan agama. Kajian penelitian mencakup konsep anak bawaan, harta bersama, hak dalam Hukum Islam, penerapan teori kredo, teori keadilan, dan teori kepastian hukum, untuk memahami pertimbangan hakim dan implementasi hak anak bawaan dalam praktik peradilan. Metode penelitian yang digunakan adalah kualitatif dengan pendekatan yuridis empiris. Data diambil dari dokumen putusan PA Ambarawa dan wawancara dengan hakim serta data pendukung yaitu peraturan, KHI, buku, jurnal, dan penelitian sebelumnya. Analisis dilakukan secara kualitatif untuk memastikan validitas data. Hasil penelitian menunjukkan anak bawaan (anak tiri) dari istri pewaris tidak termasuk ahli waris sah terhadap ayah tirinya (pewaris) karena tidak mempunyai hubungan nasab, sehingga tidak berhak mendapat waris secara langsung atas harta bersama dari perkawinan baru orang tuanya. Warisnya terbatas pada bagian orang tua kandung setelah pemisahan harta bersama sesuai KHI, anak tersebut bisa saja mendapatkan harta bagian melalui hibah atau wasiat dari pewaris. Putusan Pengadilan Agama Ambarawa membagi harta waris menjadi dua bagian setara: $\frac{1}{2}$ untuk istri pewaris (cerai mati) dan $\frac{1}{2}$ untuk ahli waris (anak kandung serta istri), menempatkan anak bawaan sebagai penerima dari orang tua kandung saja. Penerapan KHI ini mencerminkan keseimbangan kepastian hukum dan keadilan proporsional. Pewaris sebaiknya membuat wasiat atau hibah di hadapan pejabat yang berwenang agar untuk menghindari sengketa pembagian harta bersama, serta majelis hakim dalam memutus perkara harus konsisten dan berpedoman pada aturan hukum yang berlaku.

Kata Kunci: Anak Bawaan; Harta Bersama; Hak; Pengadilan Agama.

ABSTRACT

Marriage gives rise to significant legal consequences, particularly in the form of joint property acquired during the subsistence of the marriage. However, the regulation concerning the division of such joint property has not been comprehensively governed with respect to the legal position of stepchildren. Decision of the Ambarawa Religious Court Number 2007/Pdt.G/2023/PA.Amb constitutes a crucial case that reflects judicial legal discovery (Rechtvindig), whereby the judge integrated the norms of the Compilation of Islamic Law (KHI) with the facts revealed during trial in order to balance legal certainty and justice. This approach is necessary to explore the gap between normative law (das sollen) and practical implementation (das sein), including sociological factors and their implications for the rights of stepchildren. The issues examined in this research concern the extent to which stepchildren possess rights over their parents' joint marital property, as well as the legal considerations and rulings adopted by the panel of judges. The objectives of this study are to identify and analyze the inheritance rights of stepchildren with respect to their parents' joint property, to assess the judges' legal reasoning in Religious Court decisions regarding such rights, and to evaluate the conformity between legal norms and judicial practice within the Religious Court system. The scope of the study encompasses the concept of stepchildren, joint marital property, rights under Islamic law, and the application of the theory of credo, theories of justice, and legal certainty, in order to understand judicial reasoning and the implementation of stepchildren's rights in judicial practice. The research employs a qualitative method with an empirical juridical approach. Data were obtained from the Ambarawa Religious Court decision, interviews with judges, and supporting materials, including statutory regulations, the Compilation of Islamic Law, books, journals, and previous studies. Data analysis was conducted qualitatively to ensure data validity. The results of the study indicate that a stepchild of the deceased's wife is not a lawful heir to the stepfather (the deceased) due to the absence of a blood relationship, and therefore is not entitled to directly inherit from the joint marital property arising from the parents' subsequent marriage. The inheritance rights of such a child are limited to the share of the biological parent after the separation of joint marital property in accordance with the KHI. Nevertheless, the child may obtain a portion of the property through a grant or a will made by the deceased. The Ambarawa Religious Court decision divided the inheritance into two equal portions: one-half ($\frac{1}{2}$) allocated to the surviving wife (due to death of the marriage), and one-half ($\frac{1}{2}$) allocated to the lawful heirs (biological children and the wife), thereby positioning the stepchild as a beneficiary solely through the biological parent. The application of the KHI in this decision reflects a balance between legal certainty and proportional justice. It is recommended that a testator execute a will or grant before a competent authority to avoid disputes over the division of joint marital property, and that panels of judges remain consistent and adhere strictly to the applicable legal provisions in adjudicating such cases.

Keywords: Stepchildren; Joint Property; Inheritance Rights; Religious Court.